

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of Lafayette re-titling and amending various provisions of Title 11, Part 1 of the Lafayette Municipal Code, and adding Section 11-307, entitled "Permit Exemptions" to that Title

Ordinance No. 596

WHEREAS, Section 11-301 of the Lafayette Municipal Code ("LMC") currently requires a permit for any person to use, occupy or remain in a city-owned "fee facility," defined to mean a city-owned structure or park facility, or portion thereof which is rented for a fee and reserved for the exclusive use of an individual or group;

WHEREAS, LMC Section 11-201 provides that a "sports field," defined to mean a flat turf or dirt area regularly and routinely used for an athletic contest such as baseball, softball or soccer, is a "fee facility," thereby making all sports fields subject to the permit requirement of LMC Section 11-301;

WHEREAS, the Lafayette Parks, Trails and Recreation Department has recognized that the use of a sports field by fewer than 4 people, who are not occupying the field on a recurring basis, and who are not engaged in a commercial activity, has minimal impact on the surface of the sports field, such that requiring a permit is not necessary for the health, safety and welfare of the field, or the City and its residents, and therefore has requested that the City Council exempt such use from the permit requirement of Section 11-301; and

WHEREAS, the City Council desires to amend the Municipal Code to create this exemption, and to make other necessary revisions to Title 11, Part 1, as set forth below.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Amendments. Part 1 of Title 11 shall be re-titled to read as follows:

Part 1. - Park Regulations

Section 2. Amendments

The following subsections of section 11-102 of the Lafayette Municipal Code, entitled "Definitions" shall be and hereby are amended to read as follows: "11-102 - Definitions.

(d) "Park facility" or "park" means the body of water, land, campsite, recreation area, structure, system, equipment, machinery or other appurtenance owned, managed, controlled or operated by the department.

(g) "Canvassing" includes the act of any person conducting a poll, survey, or petition drive, or sharing, communicating or otherwise conveying ideas, views or beliefs, or disseminating oral or written information to a person willing to directly receive such information, whether political, religious, commercial, non-commercial, charitable or otherwise, and to solicitation to donations made incidental to such activities."

Section 3. Amendments. Section 11-203 of the Lafayette Municipal Code, entitled "Fee facilities," shall be and hereby is amended to read as follows:

"11-203 - Fee facilities.

(a) Each sports field within a park facility is a fee facility.

(b) The director may designate any area of a park as a fee facility by posting a sign on that area indicating that the area may be reserved for the exclusive use of a person or group upon payment of a fee and issuance of a permit.

(c) The city council shall establish a fee for the reservation and use of a fee facility by resolution.”

Section 4. Amendments. Section 11-204 of the Lafayette Municipal Code, entitled “Reservations,” shall be and hereby is deleted in its entirety and amended to read as follows:

“11-204 –Deleted.”

Section 5. Amendments. Section 11-205 of the Lafayette Municipal Code, entitled “Commercial activities fee,” shall be and hereby is amended to read as follows:

“11-205 - Commercial activities fee.

The city council shall establish a fee by resolution for the commercial activities, as defined by Section 11-402, of any park facility not already designated as a fee facility pursuant to this chapter.”

Section 6. Amendments. Section 11-301 of the Lafayette Municipal Code, entitled “Permit required,” shall be and hereby is amended to read as follows:

“11-301 - Permit required.

(a) Unless subject to an exemption set forth in Section 11-307 of this chapter, no person may use, occupy or remain in a fee facility without a permit issued pursuant to this chapter

(b) A person may not engage in a commercial activity defined by Section 11-402 in a park facility without a permit issued pursuant to this chapter.”

Section 7. Amendments. Section 11-307, entitled “Permit Exemptions,” shall be and hereby is added to the Lafayette Municipal Code, to read as follows:

“11-307 Permit Exemptions.

A maximum of four people may use, occupy, or remain in a sports field that is not otherwise being used or occupied by a group with a permit issued pursuant to this chapter, without a permit, provided such use or occupancy is not intended to and does not occur on recurring basis and is not a commercial activity, as defined by Section 11-402 of this chapter.”

Section 8. Amendments. Section 11-402 of the Lafayette Municipal Code, entitled “Commercial activities,” shall be and hereby is amended to read as follows:

“11-402 - Commercial activities.

(a) A person may not practice or conduct a business, profession or commercial enterprise nor sell or offer for sale a service or article, or solicit donations of money or goods in a park facility without a permit.

(b) Canvassing shall not be considered a commercial activity within the meaning of this section.”

Section 9. Amendments. Section 11-411 of the Lafayette Municipal Code, entitled “Use of park property,” shall be and hereby is amended to read as follows:

“11-411 - Use of park property.

It is a violation of this chapter for any person other than the director or her designee to do any of the following acts in a park facility:

- (a) Dig up, pick, remove, mutilate, injure, cut or destroy a turf, tree, plant, artifact, or archaeological site.
- (b) Cut, break, injure, deface or disturb a building, sign, fence, bench, structure, apparatus, equipment, or any other property owned, managed, controlled or operated by the department.
- (c) Make or place a rope, wire, mark, writing, printing, sign, card, display, or similar inscription device on any tree, plant, building or other property owned, managed, controlled or operated by the department.
- (d) Deposit or remove earth, sand, rock, stone, or any other substance or material.
- (e) Attempt to erect a building, wharf or structure of any kind.
- (f) Attempt to encumber any portion of the real property without the written approval of the city council.(g) Engage in any activity that is intended to damage the park facility or any property owned, managed, controlled or operated by the department.
- (h) Engage in any activity which is a violation of any federal, state or local law, rule or regulation.”

Section 10. Amendments. Section 11-501 of the Lafayette Municipal Code, entitled “Violation, an infraction or misdemeanor,” shall be and hereby is re-titled “Violation” and amended to read as follows:

“11-501 – Violation..

- (a) A person who, without a permit, uses a facility for which a permit is required and continues to use it after being ordered to vacate the facility or who violates a regulation contained in this chapter is guilty of an infraction, unless the violation is made a misdemeanor.
- (b) A person who violates the fireworks provision in Section 11-408 is guilty of a misdemeanor and is punishable as provided in Sections 12700—12702 of the Health and Safety Code.
- (c) A person who violates the firearms provision in Section 11-409 is guilty of a misdemeanor and is punishable as provided in Section 1-302(a).
- (d) A violation of this chapter may be subject to enforcement in accordance with chapter 1-9 and/or chapter 8-21 of this municipal code.”

Section 11. Amendments. Section 11-502 of the Lafayette Municipal Code, entitled “Sanctions for violation of regulations,” shall be and hereby is amended to read as follows:

“11-502 - Sanctions for violation of regulations.

- (a) The director may revoke a permit, or deny an application for a permit, upon a finding of noncompliance with this chapter.
- (b) The director may eject a person who violates a regulation contained in this chapter from a park facility.

(c) The director may remove any object placed, posted or erected within a park facility in violation of this chapter.”

Section 12. Amendments. Section 11-503 of the Lafayette Municipal Code, entitled “Authority to arrest,” shall be and hereby is amended to read as follows:

“11-503 - Authority to arrest.

Under Section 5380 of the Public Resources Code, in order to protect parks from damage and preserve the peace therein, the director and each uniformed park and recreation employee designated by the director, has the authority to issue citations in accordance with the provisions of Chapter 5c, Title 3, Part 2 of the Penal Code for misdemeanor violations of state law, or a violation of this chapter or this municipal code, committed in a park facility in that person's presence.”

Section 13. Amendments. Section 11-504 of the Lafayette Municipal Code, entitled “Penalties,” shall be and hereby is amended to read as follows:

“11-504 - Penalties.

(a) Except as provided in subsection (b) of this section, or in Section 11-501(b) and (c), a violation of a provision of this chapter or a rule or regulation adopted under this chapter is punishable as an infraction and upon conviction may be punished by a fine of \$100.00 for the first violation, \$200.00 for the second violation within one year, and \$500.00 for each succeeding violation within one year. Each person is guilty of a separate offense for each and every day during any portion of which the violation of a provision of this chapter is committed, continued or permitted by that person.

(b) Malicious injury or destruction of a real or personal property which constitutes vandalism under Section 594 of the Penal Code shall be prosecuted as a violation of Penal Code Section 594 and is punishable as a misdemeanor as provided in Penal Code Section 594.” Section 14. CEQA. The City Council finds that adoption of this Ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

Section 15. Notice of Exemption. The City Council directs staff to prepare and file a Notice of Exemption no more than five (5) working days after adoption of this Ordinance.

Section 16. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

Section 17. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 18. Publication. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

The foregoing Ordinance was introduced at a meeting of the City Council of the City of Lafayette held on May 23, 2011 and was adopted at a meeting of the City Council held on June 13, 2011 by the following vote:

AYES: Federighi, M. Anderson and Tatzin

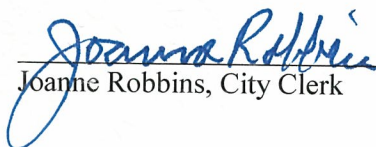
NOES: None

ABSTAIN: None


ABSENT: Anduri and B. Andersson

ATTEST:

APPROVED:



Joanne Robbins, City Clerk



Carl Anduri, Mayor

Joanne 5/20/11

Contra Costa Times

PO Box 4147
Walnut Creek, CA 94596
(925) 935-2525

Lafayette, City Of
Accounts Payable, 3675 Mt. Diablo Blvd., #210
Lafayette CA 94549-3793

PROOF OF PUBLICATION FILE NO. Ordinance 596

In the matter of

Contra Costa Times

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the Contra Costa Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598


And which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of October 22, 1934. Case Number 19764.

The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

5/18/2011

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.
On this 18th day of May, 2011.


Signature

Legal No.

0003986555

NOTICE AND SUMMARY OF PROPOSED ORDINANCE NO.596

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, AMENDING VARIOUS PROVISIONS OF TITLE 11, PART 1 OF THE LAFAYETTE MUNICIPAL CODE, RELATED TO USE OF THE LAFAYETTE SPORTS FIELDS AND OTHER PARK REGULATIONS

Notice is hereby given that on Monday, May 23, 2011, the City Council of the City of Lafayette will consider the adoption of Ordinance No.596. The following is a summary of the proposed Ordinance:

The proposed ordinance would authorize the use of a Lafayette sports field by fewer than 4 people, who are not occupying the field on a recurring basis, and who are not engaged in a commercial activity, without a permit, which would otherwise be required for such use. The proposed ordinance would also make amendments to the following sections of that title: Section 11-102, "Definitions"; Section 11-203, "Fee facilities"; Section 11-204, "Reservations"; Section 11-205, "Commercial activities fee"; Section 11-301, "Permit required"; Section 11-402, "Commercial activities"; Section 11-411, "Use of park property"; Section 11-501, "Violation"; Section 11-502, "Sanctions for violation of regulations"; Section 11-503, "Authority to arrest"; and Section 11-504, "Penalties".

Note: The above is a summary of the Ordinance. To obtain a full understanding of the Ordinance it should be read in its entirety. A certified copy of the full text of the Ordinance is posted in the City Clerk's office at 3675 Mount Diablo Blvd., Suite 210, Lafayette, California 94549. A copy may be obtained from that office upon payment of the fee based on the City's actual cost of copying of the document.

Date: May 2, 2011
Joanne Robbins, City Clerk
Publish Date: May 18, 2011

CCT# 3986555
May 18, 2011

Contra Costa Times

PO Box 4147
Walnut Creek, CA 94596
(925) 935-2525

Lafayette, City Of
Accounts Payable, 3675 Mt. Diablo Blvd., #210
Lafayette CA 94549-3793

PROOF OF PUBLICATION

FILE NO. Ordinance 596

In the matter of

Contra Costa Times

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the Contra Costa Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598

And which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of October 22, 1934. Case Number 19764.

The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

6/17/2011

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.
On this 21th day of June, 2011.



Signature

Legal No.

004045616

*orig to Joanne
6/23*

NOTICE AND SUMMARY OF ORDINANCE NO.596

AMENDING VARIOUS PROVISIONS OF TITLE 11, PART 1 OF THE LAFAYETTE MUNICIPAL CODE, RELATED TO USE OF THE LAFAYETTE SPORTS FIELDS AND OTHER PARK REGULATIONS

Notice is hereby given that on Monday, June 13, 2011, the City Council of the City of Lafayette adopted Ordinance No.596. The following is a summary of the Ordinance:

The ordinance authorizes the use of a Lafayette sports field by fewer than 4 people, who are not occupying the field on a recurring basis, and who are not engaged in a commercial activity, without a permit, which would otherwise be required for such use under Chapter 11-3 of Title 11, Part 1. The ordinance also amended the following sections of Title 11, Part 1: Section 11-102, "Definitions"; Section 11-203, "Fee facilities"; Section 11-204, "Reservations"; Section 11-205, "Commercial activities fee"; Section 11-301, "Permit required"; Section 11-402, "Commercial activities"; Section 11-411, "Use of park property"; Section 11-501, "Violation"; Section 11-502, "Sanctions for violation of regulations"; Section 11-503, "Authority to arrest"; and Section 11-504, "Penalties".

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Date: June 14, 2011
Joanne Robbins
City Clerk
CCT# 4045616
June 17, 2011

*Ord
596*